

Manual of Policies and Procedures
COMMUNITY CARE LICENSING DIVISION

CRISIS NURSERIES

Division 6

Chapter 7.3



STATE OF CALIFORNIA
Arnold Schwarzenegger, Governor
HEALTH AND HUMAN SERVICES AGENCY
S. Kimberly Belshé, Secretary
DEPARTMENT OF SOCIAL SERVICES
Cliff Allenby, Interim Director

Distributed Under the Library Distribution Act
October 2006

This page is intentionally left blank.

CRISIS NURSERIES

TABLE OF CONTENTS

TITLE 22, DIVISION 6

CHAPTER 7.3 CRISIS NURSERIES

Article 1. General Requirements and Definitions

	Section
General	86500
Definitions	86501

Article 2. License Required

License Required	86505
Crisis Nursery License Requirements	86505.1
Operation Without A License	86506
Exemption From Licensure	86507
Licensing of Integral Facilities	86508
Availability of A License	86509
Limitations on Capacity and Ambulatory Status	86510
Advertisements and License Number	86511
False Claims	86512

Article 3. Application Procedures

Applicant Nondiscrimination	86517
Application for a License	86518
Criminal Record Clearance	86519
Criminal Record Exemption	86519.1
Child Abuse Central Index	86519.2
Fire Clearance	86520
Water Supply Clearance	86521
Plan of Operation	86522
Emergency Plan	86523
Waivers and Exceptions	86524
Safeguards for Personal Property and Valuables	86526
Initial Application Review	86527
Capacity Determination	86528
Withdrawal of an Application	86529
Issuance of a License	86531
Issuance of a Provisional License	86531.1
Issuance of a Permanent License	86531.2
Submission of a New Application	86534
Conditions for Forfeiture of a Crisis Nursery License	86535
Application Processing and Annual Licensing Fees	86536

TABLE OF CONTENTS (Continued)**Article 4. Administrative Actions**

	Section
Denial of a License	86540
Revocation or Suspension of a License	86542
Inspection Authority of the Licensing Agency	86544
Evaluation Visits	86545
Exclusions	86546

Article 5. Enforcement Provisions

Deficiencies In Compliance	86552
Follow-up Visits to Determine Compliance	86553
Penalties	86554
Administrative Review	86555
Denial or Revocation of a License for Failure to Pay Civil Penalties	86555.1
Unlicensed Facility Penalties	86558
Unlicensed Facility Administrative Appeal	86559

Article 6. Continuing Requirements

Reporting Requirements	86561
Finances	86562
Accountability	86563
Administrator Qualifications and Duties	86564
Personnel Requirements	86565
Personnel Duties	86565.2
Staff to Child Ratios	86565.5
Personnel Records	86566
Intake Procedures	86568.1
Initial Assessment Plan	86568.2
Removal and Discharge Procedures	86568.4
Children's Records	86570
Personal Rights	86572
Discipline Policies and Procedures	86572.1
Complaint Procedures	86572.2
Transportation	86574
Health Related Services	86575
Food Services	86576
Personal Services	86577
Responsibility for Providing Care and Supervision	86578
Sanitation Requirements	86578.1
Planned Activities	86579
Crisis Day Care	86580

TABLE OF CONTENTS (Continued)

Article 7. Physical Environment

	Section
Alterations to Existing Buildings or New Facilities	86586
Building and Grounds	86587
Outdoor Activity Space.....	86587.1
Indoor Activity Space	86587.2
Fixtures, Furniture, Equipment, and Supplies	86588

This page is intentionally left blank.

CHAPTER 7.3 CRISIS NURSERIES**Article 1. GENERAL REQUIREMENTS AND DEFINITIONS****86500 GENERAL****86500**

- (a) A Crisis Nursery, as defined in Section 86501(c)(16), shall be governed by the provisions specified in this chapter.
- (b) The provisions of Chapter 1, General Licensing Requirements shall not apply to Chapter 7.3, Crisis Nurseries.
- (c) The provisions of this chapter shall remain in effect only until January 1, 2008, unless a statute is enacted before January 1, 2008, which deletes or extends that date.

NOTE: Authority Cited: Sections 1516(k) and 1530, Health and Safety Code. Reference: Sections 1501, 1502, and 1516, Health and Safety Code.

86501 DEFINITIONS**86501**

The following definitions shall apply whenever the terms are used throughout this chapter.

- (a) (1) "Accredited schools, colleges or universities, including correspondence courses offered by the same," means those educational institutions or programs granted public recognition as meeting established standards and requirements of an accrediting agency authorized by the U.S. Secretary of Education.

HANDBOOK BEGINS HERE

Authorized accrediting agencies include the Accrediting Commission, National Home Study, the Accrediting Bureau of Health Education Schools, the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, and the Western Association of Schools and Colleges.

HANDBOOK ENDS HERE

- (2) "Administrator" means the licensee, or the adult designated by the licensee who meets the requirements of Section 86564 to act in his/her behalf in the overall management of the facility.
- (A) "Administrator Designee means a lead caregiver as specified in Section 86565(p) designated by the administrator to act on his or her behalf in the overall management of the crisis nursery.

86501 DEFINITIONS (Continued)**86501**

- (3) "Adult" means a person who is 18 years of age or older.
- (4) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made an application for licensure of a crisis nursery.
- (5) "Approved schools, colleges or universities, including correspondence courses offered by the same," means those approved/authorized by the U.S. Department of Education, Office of Postsecondary Education or by the California Department of Consumer Affairs, Bureau for Private Postsecondary and Vocational Education, pursuant to Education Code Sections 94900 or 94915.
- (6) "Authorized Representative" means any person or entity authorized by law to act on behalf of any child. Such person or entity may include, but not be limited to, a minor's parent, a legal guardian, a conservator or a public placement agency.
- (b) (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established non-medical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.
- (2) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a crisis nursery license.
- (c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (2) "Capacity" means the maximum number of children authorized to be provided care and supervision at any one time in a crisis nursery.
- (3) "Care and Supervision" means any one or more of the following activities provided by a person or facility to meet the needs of the clients:
 - (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication, as specified in Section 86575.
 - (C) Central storing and/or distribution of medications, as specified in Section 86575.
 - (D) Arrangement of and assistance with medical, dental, and vision care. This may include transportation.
 - (E) Maintenance of house rules for the protection of children.

86501 DEFINITIONS (Continued)**86501**

- (F) Supervision of children's schedules and activities.
- (G) Maintenance and/or supervision of children's cash resources or property.
- (H) Monitoring food intake or special diets.
- (I) Providing basic services as defined in Section 86501(b)(2).
- (4) "Caregiver" for the purpose of this chapter means a crisis nursery staff person who performs the duties and responsibilities as specified in section 86565.2 for no more than three specific children under the age of six.
- (5) "Child" means a person who is under 6 years of age who is being provided care and supervision in a crisis nursery, except where specified otherwise in this chapter.
- (6) "Child Abuse Central Index" (CACI) means the California Department of Justice maintained statewide, multi-jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.
- (7) "Child Abuse Central Index Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match or the search resulted in a match but the California Department of Social Services determined after an investigation that the allegation of child abuse or neglect was not substantiated.
- (8) "Child with Special Health Care Needs" means a child who meets the requirements of Section 17710(a) of the Welfare and Institutions Code.

HANDBOOK BEGINS HERE

- (A) Welfare and Institutions Code Section 17710(a) provides:

"'Child with special health care needs' means a child, or a person who is 22 years of age or younger who is completing a publicly funded education program, who has a condition that can rapidly deteriorate resulting in permanent injury or death or who has a medical condition that requires specialized in-home health care, and who either has been adjudged a dependent of the court pursuant to Section 300, has not been adjudged a dependent of the court pursuant to Section 300 but is in the custody of the county welfare department, or has a developmental disability and is receiving services and case management from a regional center."

HANDBOOK ENDS HERE

86501 DEFINITIONS (Continued)**86501**

- (9) "Community Care Facility" means any facility, place or building where non-medical care and supervision, as defined in Section 86501(c)(3) are provided.
- (10) "Complaint" means any notice of an alleged violation of any regulation or statute of this state, including, but not limited to, Title 22 regulations and Penal Code violations.
- (11) "Completed Application" means:
 - (A) The applicant has submitted and the Department has received all required materials, including: an approved fire clearance from the appropriate fire authority having jurisdiction, a Child Abuse Central Index clearance, and a criminal record clearance or a criminal record exemption on the applicant and any other individuals specified in Section 86519.
 - (B) The Department has completed a site visit to the facility.
- (12) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:
 - (A) A Grant Deed showing ownership; or
 - (B) A lease agreement or rental agreement; or
 - (C) A court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.
- (13) "Conviction" means:
 - (A) A criminal conviction in California; or
 - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
- (14) "County Placement" for purposes of this chapter means a child who is in the protective custody of the county and placed directly by the county child welfare services agency.
- (15) "Criminal Record Clearance" means an individual has a California clearance and an FBI clearance.
- (16) "Crisis Nursery" means a facility licensed by the Department pursuant to Section 1516 of the Health and Safety Code to provide short-term, 24-hour non-medical residential care and supervision for children under six years of age, who are either:

86501 DEFINITIONS (Continued)**86501**

- (A) Voluntarily placed, as defined in paragraph (v) of this section, by a parent or legal guardian due to a family crisis or a stressful situation, for no more than 30 days, or
- (B) Temporarily placed by the county child welfare services agency, as defined in paragraph (c) (14) of this section, for no more than 14 days, unless the Department issues an exception.
- (17) "Crisis Day Care" for purposes of this chapter means any place or building licensed as a crisis nursery in which child day care services are provided to children under six years of age for less than 30 calendar days in a six-month period for families in crisis or experiencing stressful situation.
- (18) "Crisis Nursery Program Statement" means a written plan that identifies the client population, program structure and supervision, and provides specific program information. The crisis nursery program statement shall contain all the elements required in the plan of operation, as specified in Section 86522.
- (d) (1) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act (Health and Safety Code, Section 1500 et seq.) and/or regulations adopted by the Department pursuant to the Act.
- (2) "Department" for purposes of this chapter means the California Department of Social Services.
- (3) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

HANDBOOK BEGINS HERE

- (A) Welfare and Institutions Code Section 4512(a) provides in part: "Developmental disability" means a disability that originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial disability for such individual.... [T]his term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

HANDBOOK ENDS HERE

- (4) "Director" means the director of the California Department of Social Services.
- (5) "Disability" means a condition which makes a child developmentally disabled, mentally disordered or physically handicapped, and for whom special care and supervision is required as a result of his/her condition.

86501 DEFINITIONS (Continued)**86501**

- (e) (1) "Evaluator" or "Licensing Program Analyst" (LPA) means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license community care facilities.
- (2) "Exception" means a written authorization issued by the Department to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific child(ren) or staff person(s). Exceptions are granted for particular children or staff person(s) and are not transferable or applicable to other children, staff person(s), facilities or licensees.
- (3) "Exemption" means an exception to the requirements of Health and Safety Code Section 1522 and applicable regulations.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1522(g) reads in part:

After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c).

HANDBOOK ENDS HERE

- (f) (1) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense, or adjudicated as a juvenile.
- (2) "Family Crisis or Stressful Situation" means a crucial time or an unstable situation that has reached a critical phase where the parent or legal guardian has made a determination that temporary out-of-home care is in the child's best interest and is necessary for the parent or legal guardian to fulfill other responsibilities to improve or maintain the parenting function.
- (g) (1) "Guardian" means a person appointed by the Superior Court pursuant to the provisions of Sections 1500 et seq. of the Probate Code or Section 360 of the Welfare and Institutions Code to care for the person, or estate, or the person and estate of another.
- (h) (Reserved)

86501 DEFINITIONS (Continued)**86501**

- (i) (1) "Incident Report" means a written report required by the Department to report incidents as specified in Section 86561.
- (2) "Infant" means a child under two years of age.
- (3) "Initial Assessment Plan" means a time-limited, goal-oriented written plan implemented by the licensee which identifies the specific needs of an individual child and the child's family, including those items specified in Section 86568.2, and delineates those services necessary to meet those needs.
- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "Lead Caregiver" for purposes of this chapter means a person who meets the education, experience and training requirements specified in Section 86565 and is on the premises at all times when children are present and has the authority and responsibility necessary to manage and control the day-to-day operation of a crisis nursery.
- (2) "License" means written authorization to operate a crisis nursery to provide care and supervision. The license is not transferable.
- (3) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a crisis nursery.
- (4) "Licensing Agency" means the California Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.
- (m) (1) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).
- (n) (1) "Nonambulatory Person" means a person as defined in Health and Safety Code Section 13131.
 - (A) A person who uses postural supports as specified in Section 86572(c)(18) is deemed nonambulatory.
 - (B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

86501 DEFINITIONS (Continued)

86501

HANDBOOK BEGINS HERE

- (C) Health and Safety Code Section 13131 provides:

"Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984 who are not developmentally disabled shall be made by the Director of Social Services or his or her designated representative.

HANDBOOK ENDS HERE

- (o) (Reserved)

- (p) (1) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

- (2) "Placement agency" is defined in Health and Safety Code Sections 1536.1 and 1569.47(a).

HANDBOOK BEGINS HERE

Health and Safety Code Sections 1536.1(a) and 1569.47(a) are combined and paraphrased in pertinent part:

"Placement agency" means any county probation department, county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement and referral services, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and Regional Center for persons with developmental disabilities, which is engaged in finding homes or other places for the placement of persons of any age for temporary or permanent care.

HANDBOOK ENDS HERE

- (3) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.

86501 DEFINITIONS (Continued)**86501**

- (q) (Reserved)
- (r) (1) "Rehabilitation" means the efforts to reestablish good character since the date of the last conviction, including but not limited to education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.
- (2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
- (3) "Responsible person" means that individual or individuals, including a relative, health care surrogate decision maker, or placement agency, who assists the child or prospective child in placement or assumes varying degrees of responsibility for the child's well-being. A responsible person cannot act on behalf of a child unless authorized by law.
- (s) (1) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of any child in a crisis nursery.

HANDBOOK BEGINS HERE

- (A) The following are examples of regulations that, if not complied with, nearly always result in a serious deficiency.
- (1) Section 86510 relating to limitations on the capacity or ambulatory status of facility clients.
- (2) Section 86519 relating to criminal record clearance.
- (3) Section 86520 relating to fire clearance.
- (4) Section 86521 relating to water supply.
- (5) Section 86572 relating to children's personal rights.
- (6) Section 86575 relating to storing and dispensing medications.
- (7) Section 86576 relating to food storage, preparation and service.
- (8) Section 86587 relating to safety of client accommodations.

HANDBOOK CONTINUES

86501 DEFINITIONS (Continued)**86501**

HANDBOOK CONTINUES

- (9) Section 86588 relating to hot water temperature, toilet facilities, storage and disposal of solid wastes.
- (10) Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 86501s.(1).

HANDBOOK ENDS HERE

- (2) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code Section 1522(c)(4), if the individual's criminal history meets specific criteria established by Department regulation.
- (3) "Social Worker" means a person who has a graduate degree from an accredited school of social work or social welfare.
- (4) "Substantial Compliance" means the absence of any serious deficiencies.
- (5) "Substantiated Complaint" means a complaint which has been investigated by the licensing agency, and, as a result, a violation of regulations or statute has been found.
- (t) (Reserved)
- (u) (1) "Unlicensed Community Care Facility" means a facility as defined in Section 1503.5 of the Health and Safety Code.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1503.5(a) provides in pertinent part:

(A) A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide non-medical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

- (1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

(3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed community care facility.

HANDBOOK ENDS HERE

(v) (1) "Voluntary Placement," notwithstanding Section 11400(o) of the Welfare and Institutions Code, for purposes of this chapter, means a child, who is not receiving Aid to Families with Dependent Children-Foster Care (AFDC-FC), placed by a parent or legal guardian who retains physical custody of, and remains responsible for, the care of his or her children who are placed for temporary emergency care.

(2) "Volunteer" for purposes of this chapter, is a non-paid facility staff person who meets the training requirements as specified in Section 86565.

(w) (1) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority Cited: Sections 1516 and 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1503, 1503.5, 1511, 1516, 1520, 1522, 1525, 1526, 1526.8, 1531, 1533, 1534, 1536.1, 1538, and 1538.5, Health and Safety Code; and Sections 11400 and 17710, Welfare and Institutions Code.

Article 2. LICENSE REQUIRED**86505 LICENSE REQUIRED****86505**

- (a) No adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a community care facility, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1508, 1509, 1513, 1516, and 1531, Health and Safety Code; and Section 11400, Welfare and Institutions Code.

86505.1 CRISIS NURSERY LICENSE REQUIREMENTS**86505.1**

- (a) A crisis nursery shall be organized and operated on a nonprofit basis by a private nonprofit corporation or nonprofit public benefit corporation.
- (b) A crisis nursery license shall be issued only if a facility meets one of the following conditions:
- (1) The facility is operating currently as a group home for children under six years of age, or has an application on file with the Department as of September 1, 2004, intending to operate as a crisis nursery in any of the following counties:
- (A) Contra Costa
 - (B) Nevada
 - (C) Placer
 - (D) Sacramento
 - (E) San Joaquin
 - (F) Stanislaus
 - (G) Yolo

86505.1 CRISIS NURSERY LICENSE REQUIREMENTS (Continued)**86505.1**

- (2) The facility meets an urgent, significant, and unmet need for temporary care of children under the age of six years.
 - (A) A letter from the host county indicating that the crisis nursery is necessary, as specified in Section 86505.1(b)(2), shall be provided to the licensing agency.
- (3) The facility provides temporary emergency shelter and services only to children under the age of six years who are voluntarily placed, as defined in Section 86501(v)(1) by a parent or guardian, and the facility does not accept county placements as defined in Section 86501(c)(14).

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1508, 1509, 1513, 1516, and 1531, Health and Safety Code; and Section 11400, Welfare and Institutions Code.

86506 OPERATION WITHOUT A LICENSE**86506**

- (a) An unlicensed facility as defined in Section 86501(u)(1), is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 86507.
- (b) If the facility is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code Section 1538.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1538(c) provides in part:

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility..., the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection of the community care facility...within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

HANDBOOK ENDS HERE

- (c) If the facility is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.
- (d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 86558 and Section 1547 of the Health and Safety Code.

86506 OPERATION WITHOUT A LICENSE (Continued)**86506**

HANDBOOK BEGINS HERE

Section 1547 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of the violation. The civil penalty...shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility.

HANDBOOK ENDS HERE

- (e) Sections 86506(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code.
-

HANDBOOK BEGINS HERE

- (1) Section 1549 of the Health and Safety Code states:

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

HANDBOOK ENDS HERE

- (f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist:
- (1) There is an immediate threat to the childrens' health and safety.
 - (2) The facility does not submit an application for licensure within 15 calendar days of being served a notice of operation in violation of the law.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1503, 1503.5, 1505, 1508, 1516, 1524, 1533, 1536.1, 1538, 1540, 1540.1, 1541, 1547, and 1549, Health and Safety Code.

86507 EXEMPTION FROM LICENSURE**86507**

- (a) The provisions of this chapter shall not apply to those facilities and arrangements specified in Section 1505 of the Health and Safety Code.

HANDBOOK BEGINS HERE

Health and Safety Code 1505 states in pertinent part:

This chapter does not apply to any of the following:

- (a) Any health facility, as defined by Section 1250.
- (b) Any clinic, as defined by Section 1202.
- (c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.
- (d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.
- (e) Any child day care facility, as defined in Section 1596.750.
- (f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.
- (g) Any school dormitory or similar facility determined by the Department.
- (h) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the Director.
- (i) Recovery houses or other similar facilities providing a group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.
- (j) Any alcoholism or drug abuse recovery or treatment facility as defined by Section 11834.11.
- (k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department. For purposes of this chapter, arrangements for the receiving and care of persons by a relative shall include relatives of the child for the purpose of keeping sibling groups together.

HANDBOOK CONTINUES

86507 EXEMPTION FROM LICENSURE (Continued)**86507****HANDBOOK CONTINUES**

(l) (1) Any home of a relative caregiver of children who are placed by a juvenile court, supervised by the county welfare or probation department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.

(2) Any home of a non-relative extended family member, as described in Section 362.7 of the Welfare and Institutions Code, providing care to children who are placed by a juvenile court, supervised by the county welfare or probations department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.

(m) Any supported living arrangement for individuals with developmental disabilities as defined in Section 4689 of the Welfare and Institutions Code.

(n) ...

(o) Any facility in which only Indian children who are eligible under the federal Indian Child Welfare Act, Chapter 21 (commencing with Section 1901) of Title 25 of the United States Code are placed and that is one of the following:

(1) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.

(2) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.

(p) ...

(q) Any similar facility determined by the director.

HANDBOOK ENDS HERE

(b) The provisions of this chapter shall not apply to any school dormitory or similar facility where all of the following conditions exist:

(1) The school is certificated/registered by the State Department of Education.

(2) The school and the school dormitory are on the same grounds.

(3) All children accepted by the school are six years of age or older.

(4) The program operates only during normal school terms unless the academic program runs year-round.

(5) The school's function is educational only.

86507 EXEMPTION FROM LICENSURE (Continued)**86507**

- (6) The school program is not designated as providing rehabilitative or treatment services.
 - (7) The school's function does not promote intent to provide community care services, and the school does not accept children who are in need of such services, including but not limited to children with developmental disabilities, mental disorders or physical handicaps; juveniles declared dependents of the court under Welfare and Institutions Code Section 300; and juveniles declared wards of the court under Welfare and Institutions Code Sections 601 and 602.
 - (8) The facility does not receive any public funds designated for care including but not limited to AFDC-FC and SSI/SSP. The facility shall be permitted to receive public funds intended for educational programs.
 - (9) No public or private agency, including but not limited to county welfare departments and probation offices, provides social services to children in the facility.
- (c) The provisions of this chapter shall not apply to the following additional situations:
- (1) Any care and supervision of persons from only one family by a close friend of the parent, guardian or conservator, provided that such arrangement is not for financial profit and does not exceed 10 hours per week.
 - (A) Provision of longer hours of care shall not be precluded when provided for brief periods of time for reasons, including but not limited to family emergencies, vacation, and military leave.
 - (2) Any home exclusively used by a licensed or exempt Foster Family Agency and issued a certificate of approval by that agency.
 - (A) Such families shall not be required to obtain a license, but shall be in compliance with all other requirements set forth in this division. The home's compliance with requirements shall be monitored through and assured by the Foster Family Agency. For the purposes of this section, an exclusive-use facility shall mean a nonlicensed residential facility that has been certified by a licensed Foster Family Agency as conforming to the regulations pertaining to the Small Family Home Category. A home in the exclusive use of a licensed Foster Family Agency shall accept only those children placed by that agency which certified the home.

86507 EXEMPTION FROM LICENSURE (Continued)**86507**

- (3) A home which meets all of the following criteria:
 - (A) approved by a licensed adoption agency, or the Department, for the adoptive placement of a child, and
 - (B) the child is legally free for adoption, and
 - (C) the agency or the Department is providing supervision of the placement pending finalization of the adoption.
- (4) A home which meets all of the following criteria:
 - (A) placement for adoption by a birth parent, and
 - (B) a petition for adoption has been filed by the prospective adoptive parents, and is pending, and
 - (C) a final decision on the petition has not been rendered by the court.
- (5) Any care and supervision of persons by a relative, guardian or conservator. A relative, for purposes of this section, shall include individuals as specified in Health and Safety Code Section 1505(k).

NOTE: Authority Cited: Sections 1530 and 1530.5, Health and Safety Code; and Section 17730, Welfare and Institutions Code. Reference: Sections 1503, 1505, 1506, 1508, 1516, 1524, 1530, 1530.5, 1531, 1536, 1, 1540, 1540.1, 1541, and 1547, Health and Safety Code.

86508 LICENSING OF INTEGRAL FACILITIES**86508**

- (a) Upon written application from the licensee, the licensing agency shall have the authority to issue a single license for separate buildings which might otherwise require separate licenses provided that all of the following requirements are met:
 - (1) Separate buildings or portions of the facility are integral components of a single program.
 - (2) All components of the program are managed by the same licensee.
 - (3) All components of the program are conducted at a single site with a common address.
- (b) If (a) above does not apply, each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations as determined by the licensing agency.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1508, 1509, 1513, and 1516, Health and Safety Code.

86509	AVAILABILITY OF A LICENSE	86509
--------------	----------------------------------	--------------

- (a) The license shall be posted in a prominent, publicly accessible location in the facility.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1503, 1516, and 1531, Health and Safety Code.

86510	LIMITATIONS ON CAPACITY AND AMBULATORY STATUS	86510
--------------	--	--------------

- (a) A licensee shall not operate a crisis nursery beyond the conditions and limitations specified on the license, including the capacity limitation.
- (b) Facilities or rooms approved for ambulatory children only shall not be used by nonambulatory children.
- (1) Children whose condition becomes nonambulatory shall not use rooms or areas restricted to ambulatory children.
- (2) The licensing agency shall have the authority to require children who use ambulatory sections of the facility to demonstrate that they are ambulatory.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1516, and 1531, Health and Safety Code.

86511 ADVERTISEMENTS AND LICENSE NUMBER**86511**

- (a) Licensees shall reveal each crisis nursery license number in all advertisements in accordance with Health and Safety Code Section 1514.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code, Section 1514 provides:
- (a) Each residential care facility licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.
- (b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) shall include, but are not limited to, those contained in the following:
- (1) Newspaper or magazine.
 - (2) Consumer report.
 - (3) Announcement of intent to commence business.
 - (4) Telephone directory yellow pages.
 - (5) Professional or service directory.
 - (6) Radio or television commercial.

HANDBOOK ENDS HERE

- (b) Correspondence shall be considered a form of advertisement if the intent is to attract clients.
- (c) Licensees who operate more than one crisis nursery and use a common advertisement for these crisis nurseries shall be required to list each crisis nursery license number in accordance with Health and Safety Code Section 1514.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1514 and 1516, Health and Safety Code.

86512 FALSE CLAIMS**86512**

- (a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the crisis nursery or any of the services provided by the crisis nursery.
- (b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.
- (c) If a person is determined to have made, disseminated, participated in making, or caused to be made a false or misleading statement pursuant to Section 86512(a) above, and that statement has resulted in a crisis nursery overpayment being assessed pursuant to the Manual of Policies and Procedures Section 11-402.6 et seq., then such person shall not be eligible for a new license under Title 22, Division 6 or Division 12 and shall not be eligible to serve as an officer or employee of a new or subsequent licensee under Title 22, Division 6 or Division 12 until the crisis nursery overpayment is fully repaid or otherwise discharged.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1508, 1516, and 1531, Health and Safety Code.

Article 3. APPLICATION PROCEDURES**86517 APPLICANT NONDISCRIMINATION****86517**

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1516, 1520, and 1530, Health and Safety Code.

86518 APPLICATION FOR A LICENSE**86518**

- (a) Any crisis nursery applicant desiring to obtain a license shall file with the licensing agency a verified application made available by the licensing agency.
- (b) Prior to filing an application, the applicant shall attend a crisis nursery orientation provided by the licensing agency.
- (1) The orientation shall cover, but not be limited to, the following areas:
- (A) Completion of the application for license.
- (B) Scope of operation subject to regulation by the Department.
- (2) An applicant who is already licensed for a crisis nursery shall not be required to attend an orientation if the last orientation attended was for a crisis nursery and was within two (2) years of the next scheduled orientation.
- (3) An applicant applying for more than one crisis nursery license, shall be required to attend only one orientation.
- (c) The applicant/licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.
- (d) The application and supporting documents shall contain the following:
- (1) Name or proposed name and address of the crisis nursery.
- (2) Name, and residence and mailing addresses of applicant and the name, title and principal business address of each officer, executive director and member of the governing board.

86518 APPLICATION FOR A LICENSE (Continued)**86518**

- (A) A copy of the articles of incorporation, constitution and bylaws.
- (B) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.
- (3) Name and address of owner of the crisis nursery premises if applicant is leasing or renting.
- (4) Procedures for responding to incidents and complaints, as follows:
 - (A) The crisis nursery shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee, is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.
 - (B) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, the crisis nursery shall establish a fixed time on a weekly basis when the owner, licensee or person designated by the owner or licensee will be present.
- (5) The category of facility to be operated.
- (6) Maximum number of children to be served.
- (7) Age range, sex and the categories of children to be served, including but not limited to children with developmental disabilities, mental disorders, physically handicapped and/or nonambulatory children.
- (8) Hours or periods of the crisis nursery operation.
- (9) Name of administrator.
- (10) Information required by Health and Safety Code Section 1520(d).

86518 APPLICATION FOR A LICENSE (Continued)**86518**

HANDBOOK BEGINS HERE

Health and Safety Code Section 1520(d) states:

Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director, of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

HANDBOOK ENDS HERE

- (11) Information required by Health and Safety Code Section 1520(e).
-

HANDBOOK BEGINS HERE

Health and Safety Code Section 1520(e) provides:

Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (d).

HANDBOOK ENDS HERE

- (12) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the crisis nursery is located.
- (13) A plan of operation as specified in Section 86522.
- (14) A financial plan of operation on forms provided or approved by the Department.
- (A) Start-up funds shall be available and shall include funds for the first three months of operation.
 - (B) Start-up funds shall be independent of prospective client fees. In cases of a change of ownership, expected income from clients currently in placement shall be considered.
 - (C) Start-up funds shall not include funds designated for or used for construction costs.
 - (D) The licensing agency shall have the authority to require written verification of the availability of the funds specified in (A) above.
- (15) A written plan for training of staff and volunteers, as specified in Section 86565.

86518 APPLICATION FOR A LICENSE (Continued)**86518**

- (16) A written plan for activities as specified in Section 86579.
- (17) The name and residence and mailing addresses of the crisis nursery administrator, a description of the administrator's background and qualifications, and documentation verifying required education and experience requirements.
- (18) Fingerprint images as specified in Section 86519.
- (19) Information required by Health and Safety Code Section 1522.1.

HANDBOOK BEGINS HERE

Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

HANDBOOK ENDS HERE

- (20) A health screening report on the applicant as specified in Section 86565(g).
- (21) The fee for processing the application by the requested capacity as specified in Section 86536.
- (22) Such other information as may be required pursuant to Section 1520(g) of the Health and Safety Code.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1520(g) provides:

Any other information that may be required by the department for the proper administration and enforcement of this chapter.

HANDBOOK ENDS HERE

- (e) The application shall be signed by the applicant.
 - (1) The application shall be signed by the chief executive officer or authorized representative.

86518 APPLICATION FOR A LICENSE (Continued)**86518**

- (f) The application shall be filed with the licensing agency which serves the geographical area in which the facility is located.
- (g) Each applicant shall obtain a signed form, LIC 165 from each member of the board of directors. A copy of each signed LIC 165 shall be submitted to the Department.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1516, 1520, 1522, 1522.1, 1523.1, and 1524.5, Health and Safety Code.

86519 CRIMINAL RECORD CLEARANCE**86519**

- (a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code Section 1522(b) and shall have the authority to approve or deny a crisis nursery license, or employment, residence, or presence in the crisis nursery, based upon the results of such review.
 - (1) Volunteers in a crisis nursery shall be fingerprinted for the purpose of conducting a criminal record review as specified in Section 1526.8(b)(1) of the Health and Safety Code.

HANDBOOK BEGINS HERE

Section 1526.8(b)(1) of the Health and Safety Code states in part:

Volunteers shall be fingerprinted for the purpose of conducting a criminal record review as specified in subdivision (b) of Section 1522.

Section 1522(a) of the Health and Safety Code states in part:

(1) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code for violating Section 245, 273.5, of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

(3) Except during the 2003-04 and 2004-05 fiscal years, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing non-medical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, and the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the California Department of Social Services with a statement of that fact.

Section 1522(b) of the Health and Safety Code provides in part:

(1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of 1338.5 or 1736.6, respectively, who is not employed, retained or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who fall under this exemption shall provide one copy of his or her current certification, prior to providing care, to the adult community care facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

HANDBOOK CONTINUES

86519 CRIMINAL RECORD CLEARANCE (Continued)**86519****HANDBOOK CONTINUES**

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

HANDBOOK ENDS HERE

(b) The following persons are exempt from the requirement to submit fingerprints:

(1) A medical professional, as defined by the Department in regulations, who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee, if all of the following apply:

(A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.

(B) The individual is providing time-limited specialized clinical care or services.

(C) The individual is providing care or services within the individual's scope of practice.

(D) The individual is not a community care facility licensee or an employee of the facility.

(2) A third-party repair person, or similar retained contractor, if all of the following apply:

(A) The individual is hired for a defined, time-limited job.

(B) The individual is not left alone with children.

(C) When children are present in the room in which the repair person or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract for a child of the crisis nursery, and are in the crisis nursery at the request of that child's legal decision maker.

(A) The exemption shall not apply to a person who is a licensee or an employee of the crisis nursery.

86519 CRIMINAL RECORD CLEARANCE (Continued)**86519**

- (4) Clergy and other spiritual caregivers who are performing services in common areas of the crisis nursery, or who are advising an individual child at the request of, or with the permission of, the child's legal decision maker.
 - (A) This exemption shall not apply to a person who is a licensee or an employee of the crisis nursery.
 - (5) Members of fraternal, service and similar organizations who conduct group activities for children in a care, if all of the following apply:
 - (A) Members are not left alone with the children.
 - (B) Members do not take children off the crisis nursery premises.
 - (C) The same group does not conduct such activities more often than once a month.
 - (6) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.
- (c) Prior to the Department issuing a license, the applicant, administrator and any employee/volunteer of the crisis nursery shall obtain a California criminal record clearance or exemption as specified in Health and Safety Code Section 1522(a)(4).

HANDBOOK BEGINS HERE

Health and Safety Code Section 1522(a)(4) provides in part:

An applicant and any other person specified in subdivision (b) of the Health and Safety Code Section 1522 shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) of Health and Safety Code Section 1522 meet all of the conditions for licensure, except the receipt of the Federal Bureau of Investigation's criminal history information for the applicant or any of the persons described in subdivision (b) of Health and Safety Code Section 1522, the Department may issue a license if the applicant and each person described in subdivision (b) of Health and Safety Code Section 1522 has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or any other person specified in subdivision (b) of Health and Safety Code Section 1522 has a criminal record, the license may be revoked pursuant to Health and Safety Code Section 1550. The Department may also suspend the license pending as administrative hearing pursuant to Health and Safety Code Section 1550.5.

HANDBOOK ENDS HERE

86519 CRIMINAL RECORD CLEARANCE (Continued)**86519**

- (d) All individuals subject to criminal record review shall be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.
- (1) A person signing the LIC 508 must:
- (A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 86519(i) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.
- (B) If convicted of a crime other than a minor traffic violation, provide information regarding the conviction.
- (2) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with the requirements of Section 86519(e), prior to the individual's employment, residence, or initial presence in the crisis nursery.
- (A) Fingerprints shall be submitted to the California Department of Justice by the licensee, or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the Department.
- (e) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1522 shall prior to working, residing or volunteering in a licensed crisis nursery:
- (1) Obtain a California clearance or a criminal record exemption as required by the Department or
- (2) Request a transfer of a criminal record clearance as specified in Section 86519(f) or
- (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 86519.1, unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the crisis nursery.

86519 CRIMINAL RECORD CLEARANCE (Continued)**86519**

- (f) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:
- (1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).
 - (2) A copy of the individual's:
 - (A) Driver's license, or
 - (B) Valid identification card issued by the Department of Motor Vehicles, or
 - (C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.
 - (3) Any other documentation required by the Department [e.g., Criminal Record Statement - LIC 508, (Rev. 1/03) which is incorporated by reference and job description].

HANDBOOK BEGINS HERE

Health and Safety Code Section 1522(h) states in part:

The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

HANDBOOK ENDS HERE

- (g) Violation of Section 86519(e) shall result in a citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (\$100) per violation per day for a maximum of five (5) days by the Department.
- (1) Subsequent violations within a twelve (12) month period shall result in a civil penalty of one hundred dollars (\$100) per violation per day for a maximum of thirty (30) days.
 - (2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1548.
- (h) Violation of Section 86519(e) may result in a denial of the license application or suspension and/or revocation of the license.
- (i) If the criminal record transcript of any of the individuals specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than \$300, and an exemption pursuant to Section 86519.1 has not been granted, the Department shall take the following actions:

86519 CRIMINAL RECORD CLEARANCE (Continued)**86519**

- (1) For initial applicants, denial of the application.
 - (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
 - (3) For current employees or volunteers, exclude the affected individual pursuant to Health and Safety Code Section 1558, and deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
- (j) The Department shall notify the licensee and the affected individual associated with the crisis nursery, in concurrent, separate letters, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

HANDBOOK BEGINS HERE

Section 1522(c) of the Health and Safety Code states in part:

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the California Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the California Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The California Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the California Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (g). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(4) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

HANDBOOK CONTINUES

86519 CRIMINAL RECORD CLEARANCE (Continued)**86519**

HANDBOOK CONTINUES

Section 1522(e) of the Health and Safety Code states in part:

The California Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident or arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

Section 243.4 of the Penal Code states in part:

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

Section 273a of the Penal Code states:

(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

HANDBOOK CONTINUES

86519 CRIMINAL RECORD CLEARANCE (Continued)**86519**

HANDBOOK CONTINUES

Section 273d of the Penal Code states in part:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4 or 6 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both.

Section 368 of the Penal Code states in part:

(b) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years.

(c) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.

Section 1522(c) of the Health and Safety Code states in part:

If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the California Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (f).

The California Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

HANDBOOK ENDS HERE

(j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees and volunteers in the individual's personnel file as required in Section 86566.

(1) Documentation shall be available for inspection by the Department.

86519 CRIMINAL RECORD CLEARANCE (Continued)**86519**

- (k) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.
- (1) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1503.5, 1505, 1508, 1522, 1526.8, 1531, 1533, 1538, 1540, 1540.1, 1547, 1548, and 1549, Health and Safety Code.

86519.1 CRIMINAL RECORD EXEMPTION**86519.1**

- (a) The Department will notify a licensee to act immediately to remove from the crisis nursery or bar from entering the crisis nursery any person described in Sections 86519.1 (a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.
- (1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;
- (2) Any person who has been convicted of a felony;
- (3) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1522(c)(3);
- (4) Any person who has been convicted of any crime specified below:
- (A) Battery
- (B) Shooting at Inhabited Dwelling
- (C) Corporal Injury on Spouse/Cohabitant
- (D) Discharging Firearm with Gross Negligence
- (E) Exhibiting Weapon/Firearm
- (F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death
- (G) Criminal Threat to Harm or Injure Another Person
- (H) Cruelty to Animals
- (I) Willful Harm or Injury to Child; or

86519.1 CRIMINAL RECORD EXEMPTION (Continued)**86519.1**

- (5) Any other person ordered to be removed by the Department.
- (b) In addition to the requirements of Section 86519.1(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the crisis nursery.
 - (1) Confirmation must be made on either a Removal Confirmation – Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation - Denial, LIC 300B (Rev. 9/03), Removal Confirmation - Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation – Nonexemptible, LIC 300D (Rev. 9/03).
- (c) After a review of the criminal record transcript, the Department may grant an exemption if:
 - (1) The applicant/licensee requests an exemption in writing for himself or herself, or
 - (2) The applicant/licensee requests an exemption in writing for an individual associated with the crisis nursery, or
 - (3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and
 - (4) The affected individual presents substantial and convincing evidence to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment, or presence, in a licensed crisis nursery.
- (d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 86519.1(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.
 - (1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.
 - (2) The notice shall list the information that must be submitted to request a criminal record exemption.
 - (3) The information must be submitted within forty-five (45) days of the date of the Department's notice.

86519.1 CRIMINAL RECORD EXEMPTION(Continued)**86519.1**

- (A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department including, but not limited to, police reports and certified court documents to process the exemption request, pursuant to Section 86519.1(e).
- (B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or a dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may cease processing the exemption request and close the case.
- (C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may deny the exemption request.
- (D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:
 - 1. Chooses not to request the exemption and
 - 2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or
 - 3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.
- (e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:
 - (1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.
 - (2) Period of time since the crime was committed and number of offenses.
 - (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
 - (5) Granting by the Governor of a full and unconditional pardon.

86519.1 CRIMINAL RECORD EXEMPTION (Continued)**86519.1**

- (6) Character references.
 - (A) All character references shall be on a Reference Request form (LIC 301E – Exemptions)
- (7) A certificate of rehabilitation from a superior court.
- (8) Evidence of honesty and truthfulness as revealed in exemption application documents.
 - (A) Documents include, but are not limited to:
 - 1. A Criminal Record Statement (LIC 508, [Rev. 1/03]) and
 - 2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.
- (9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.
- (f) The Department shall also consider the following factors in evaluating a request for an exemption:
 - (1) Position held in the crisis nursery.
 - (2) The individual's age at the time the crime was committed.
- (g) The Department may deny an exemption request if:
 - (1) The licensee and/or the affected individual fails to provide documents requested by the Department, or
 - (2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.
- (h) The reasons for any exemption granted or denied shall be in writing and kept by the Department.
 - (1) Exemption denial notices shall specify the reason the exemption was denied.
- (i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed crisis nursery.
- (j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:
 - (1) Makes a knowingly false or misleading statement regarding:

86519.1 CRIMINAL RECORD EXEMPTION (Continued)**86519.1**

- (A) Material relevant to their application for a criminal record clearance or exemption,
 - (B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed crisis nursery, after the Department has ordered that they be excluded from any or all licensed facilities, or
 - (C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or
- (2) Is on probation or parole.
- (A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 86519.1(j)(2).
- (k) The Department shall consider granting a criminal record exemption if the individual's criminal history meets all of the applicable criteria specified in Sections 86519.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 86519.1(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated or the reports regarding the underlying offense, presents a risk of harm or violence.
- (1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.
 - (2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (6) The individual has not been convicted of a violent felony.

86519.1 CRIMINAL RECORD EXEMPTION (Continued)**86519.1**

- (7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 86519.1(k)(1) through (5) above shall begin from the last date of conviction(s).
- (l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 86519.1(k)(1) through (6).
- (m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1522(g)(1) of the Health and Safety Code.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1522(g)(1) provides that no exemption shall be granted if and individual has been convicted of any of the following offenses:

- (1) Penal Code Sections 136.1 and 186.22 – Gang related/Intimidation of witnesses or victims.
- (2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
- (3) Penal Code Section 203 – Any mayhem.
- (4) Penal Code Section 206 - Felony torture.
- (5) Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.
- (6) Penal Code Sections 211, 212.5, 213, 214 – Any robbery.
- (7) Penal Code Section 215 – Carjacking.
- (8) Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.
- (9) Penal Code Section 243.4 – Sexual battery.
- (10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.
- (11) Penal Code Section 262(a)(1) or (4) – Rape of a spouse.
- (12) Penal Code Section 264.1 – Rape in concert.

HANDBOOK CONTINUES

86519.1 CRIMINAL RECORD EXEMPTION (Continued)**86519.1**

HANDBOOK CONTINUES

- (13) Penal Code Section 266 – Enticing a minor into prostitution.
- (14) Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud
- (15) Penal Code Section 266h(b) – Pimping a minor.
- (16) Penal Code Section 266i(b) – Pandering a minor.
- (17) Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.
- (18) Penal Code Section 267 – Abduction for prostitution.
- (19) Penal Code Section 269 – Aggravated assault of a child.
- (20) Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).
- (21) Penal Code Section 273a (a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
- (22) Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.
- (23) Penal Code Section 285 – Incest.
- (24) Penal Code Section 286 – Sodomy.
- (25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.
- (26) Penal Code Section 288a – Oral copulation.
- (27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.
- (28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.
- (29) Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.
- (30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.

HANDBOOK CONTINUES

86519.1 CRIMINAL RECORD EXEMPTION (Continued)

86519.1

HANDBOOK CONTINUES

- (31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.
- (32) Penal Code Section 311.3 – Sexual exploitation of a child.
- (33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.
- (34) Penal Code Section 311.10 – Advertising or distributing child pornography.
- (35) Penal Code Section 311.11 – Possessing child pornography.
- (36) Penal Code Section 314 paragraphs 1 or 2 – Lewd or obscene exposure of private parts.
- (37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.
- (38) Penal Code Section 368 – Elder or dependent adult abuse.
- (39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.
- (40) Penal Code Section 451(a) or (b) – Arson.
- (41) Penal Code Section 460(a) – First degree burglary if it is charged and proved that a non-accomplice was present in the residence during the burglary.
- (42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.
- (43) Penal Code Section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.
- (44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.
- (45) Penal Code Sections 664/187 – Any attempted murder.
- (46) * Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.
- (47) * Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.

HANDBOOK CONTINUES
